

BOARD OF APPEALS CASE NO. 5024

BEFORE THE

**APPLICANTS: Patricia Cutler Young,
William C. Young and Anne Y. Walker**

**REQUEST: Variance to permit a tenant
dwelling on 4.526 acres in the AG District;
3823 Salem Church Road, Jarrettsville**

ZONING HEARING EXAMINER

OF HARFORD COUNTY

Hearing Advertised

Aegis: 2/23/00 & 3/1/00

Record: 2/25/00 & 3/3/00

HEARING DATE: April 19, 2000

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ZONING HEARING EXAMINER'S DECISION

The original Applicants in the subject case, Victor and Barbara Ardinger, while this Application was pending, sold the subject property to Patricia Cutler Young, William C. Young and Anne Y. Walker as Trustees of the Patricia Cutler Young 2000 Trust. A motion to amend the application to reflect this change in Applicants was made and granted at the start of the hearing on the matter. Accordingly, the Applicants, the Trustees of the Patricia Cutler Young 2000 Trust, are requesting a variance to Section 267-26(D)(6) of the Harford County Code to permit an existing tenant house on less than the required eleven (11) acres in an Agricultural District.

The property is located at 3823 Salem Church Road, Jarrettsville, in the Fourth Election District. The parcel is more specifically identified as Parcel 244 (not 255 as noted on the Application and the Department of Planning and Zoning's Staff Report), in Grid 4F, on Tax Map 23. The property contains approximately 4.528 acres, all of which is zoned AG Agricultural.

One of the Applicants, Ms. Anne Walker, 3820 Salem Church Road, Jarrettsville, appeared and testified that her co-Applicant and the subject of the trust, Patricia Cutler Young, is her mother. Ms. Walker testified that she has lived across the street from the subject property for the past seven years and had recently become interested in purchasing the subject property for her mother's residence. She indicated that there is an old home on the property which is in need of restoration (it is currently vacant and apparently uninhabitable without significant renovation).

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Ms. Walker stated that her mother is interested in historic preservation and would like to restore the home to its original condition. Her mother currently resides in Connecticut, but would like to move to Maryland to be closer to her grandchildren. When the prior owner of the subject property informed them that he was going to put the property on the market, Ms. Walker and her co-trustees decided to purchase the property for Mrs. Young.

According to Ms. Walker, and the application submitted by the prior owner, Mr. Ardinger, when Mr. Ardinger purchased the property in 1981, the property was improved by the main dwelling (which was vacant and in need of repair) as well as a carriage house which had been converted to a residence and used as such for some time. Mr. Ardinger's plans to restore the main dwelling were abandoned when his wife became ill. The current Applicants would like to continue with the plans for restoration and ultimately utilize the main dwelling as the primary residence.

It was Ms. Walker's testimony that the property contains a barn and a paddock area suitable for horses and that the carriage house would be utilized as a tenant house for a farm worker(s) once the primary dwelling is habitable. Ms. Walker indicated that she and her co-applicants understand and are agreeable to the condition that the carriage/tenant house cannot be rented for income nor used for anyone other than workers on the property. She also indicated that there is no negative impact to the surrounding properties, noting that the minimum lot size in an agricultural district is two (2) acres and that this property would have supported two residences if it had been subdivided. Ms. Walker testified that the applicants do not intend to subdivide the property. Their intent is to have a worker/tenant in the carriage house who would perform all the maintenance and chores on the property as Ms. Young is not able to perform these duties herself. Ms. Walker further testified that this property is unique because of the historic nature of the main dwelling and that the property can be restored to its original use and condition as a horse farm.

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Mr. Thomas Carroll, 3829 Salem Church Road, Jarrettsville, appeared and testified in support of the application. Mr. Carroll indicated that he resides directly behind the subject property on a lot that is approximately the same size as the subject property. He has horses on his property and owns a tack shop in Baltimore County. Mr. Carroll testified that at least one other property in the area has a small apartment in a barn on the property to house farm employees who help with the horses, so the tenant house on the subject property would be in keeping with the rural flavor of the neighborhood. Mr. Carroll would very much like to see the main dwelling on the property restored and believes that the subject property is unique because of the age of the main dwelling, which appears to have been built in the 1800's or early 1900's.

Mr Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified that it appears the carriage house has been used as a living quarters for quite some time, with no adverse impact on the surrounding properties. Mr. McClune noted that the Department of Planning and Zoning had contacted Mr. Chris Weeks, a planner involved in historic preservation, and Mr. Weeks indicated that the main dwelling appears to have been built in the 1800's, a time when it was common for farms to be built with carriage houses. Mr. McClune testified that the property is unique because of the configuration of the property and the location of the dwellings on the site. Mr. McClune also indicated that the property already contains two wells and two septic systems, and that the Health Department would have to sign off as to the adequacy of water and septic in order for the property to receive a permit for the tenant house. It was the Department's opinion that there would be no adverse impact if the variance were granted, and that the Department recommended approval on the condition that the applicants obtain a permit for the tenant house, along with any other necessary permits and inspections.

One witness, Mr. John Petersam, 2304 Carlo Road, Fallston appear and testified that he owns Lot 2, 3807 Salem Church Road, Jarrettsville. Mr. Petersam was not necessarily opposed to the request, in fact he supported the Applicant's desire to restore the main dwelling on the property. Mr. Petersam's primary concern was that the property should not be subdivided because it is currently of a size that is consistent with other parcels in the area. No other witnesses appeared in opposition to the request.

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CONCLUSION:

The Applicants are requesting a variance to Section 267-26(D)(6) of the Harford County Code, which provides:

“Agricultural tenant house, including mobile home, for bona fide farm workers when not more than one (1) such structure is provided on parcels of eleven (11) to fifty (50) acres and not more than one (1) additional tenant house per fifty (50) acres thereafter.”

The uncontradicted evidence offered by the Applicant and other witnesses demonstrates that denial of the requested variance would make it difficult if not impossible for Ms. Young to reside on the property without the ability to house farm help in the carriage/tenant house. In addition, a variance is necessary in order for the main dwelling to be restored and returned to its original use as the primary residence. The evidence indicates that the carriage/tenant house was constructed decades ago and was occupied by the residents of the property for many years, with no apparent adverse impact to the surrounding properties or the neighborhood. The configuration of the property and the location and nature of the dwellings on the parcel are unique.

Accordingly, it is the finding of the Hearing Examiner that the property is unique and that denial of the variance would cause practical difficulty and unnecessary hardship to the Applicants. Approval of the variance would not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance to allow a tenant house on less than 11 acres be approved, subject to the following conditions:

1. The Applicants shall obtain a permit to use the second dwelling as a tenant house;
2. The Applicants shall obtain all necessary permits and inspections for the renovation/restoration of the existing farmhouse/principal dwelling.

Date JUNE 6, 2000

Valerie H. Twanmoh
Zoning Hearing Examiner